

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the Certification to Conduct Gambling Activities of:)
) No. CR 2011-01549
)
Scott D. Pacheco) **FINDINGS, CONCLUSIONS,**
Marysville, Washington,) **DECISION, AND FINAL**
) **ORDER IN DEFAULT**
Class III Employee.)

THE MATTER of the revocation of the certification to conduct gambling activities of Scott D. Pacheco, having come before the Commission on March 8, 2012, the State being represented by Jerry Ackerman, Senior Counsel, Office of the Attorney General, the Commission makes the following Findings of Fact, Conclusions of Law, and issues the following Decision and Order:

FINDINGS OF FACT

I.

The Washington State Gambling Commission issued certification number 69-16660 to Scott D. Pacheco, authorizing Class III Employee activity, formerly at Tulalip Resort Casino in Marysville. The certification expires on March 9, 2012, and was issued subject to Scott D. Pacheco's compliance with the Tulalip Tribal/State Compact and state gambling laws and rules.

II.

On January 13, 2012, Director Rick Day issued administrative charges to Scott D. Pacheco, by certified and regular mail. Mr. Pacheco did not respond to the charges and waived his right to a hearing and pursuant to RCW 34.05.440, this final order may be entered in default.

III.

1) A Commission Special Agent (agent) was assigned Scott D. Pacheco's file to investigate whether he continues to qualify for certification after having his tribal license revoked. In the context of the investigation, the agent received a copy of an Incident Report from the Tulalip Tribal Gaming Agency (TTGA). The report documented the TTGA's investigation of Scott Pacheco, Class III Employee and Tribal Lottery System (TLS)¹ technician, for theft of TLS tickets.

2) In the summer of 2011, TTGA was involved in an investigation of their TLS technicians after one of them admitted to taking over \$10,000 worth of TLS tickets and having them cashed out for his own use. This employee stated that he was not the only TLS technician engaging in this

¹ Tribal lottery system or Video Gaming Terminal machines: The TLS/VGT machines are a cashless computerized gaming system that allows players to convert cash into game play credits which are printed on tickets and then inserted into a bill receptor on Player Terminal (PT) machines. The credits are added to the machine and used to play the game.

unlawful activity. On June 29, 2011, a letter was sent to all of the licensees in the Tribe's Slot Tech Department, informing them that they were the subject of an ongoing investigation that had resulted in significant losses to the Tribe. The letter stated that as an alternative to suspending their tribal gaming licenses, they could take a polygraph test that would have limited scope to the theft of TLS tickets. Out of the 20 letters that were issued, 17 employees responded that they would participate, including Mr. Pacheco.

3) Based on their investigation, the TTGA determined that Mr. Pacheco, while working as a TLS technician, committed theft of at least \$50 by failing to return the unused portions of TLS tickets to the cage as required. Mr. Pacheco gave the tickets to his son to cash out at a Ticket Exchange (TX) machine. Use of the TX machine is outside the scope of responsibility of a TLS technician. Mr. Pacheco had shown in the past that he knew it was proper to return his unused tickets. As a result, Mr. Pacheco and his son defrauded the Tulalip Tribe of more than \$50.

4) On May 24, 2011, the Tulalip Gaming Commission suspended Mr. Pacheco's Tribal Gaming license, pending revocation. Mr. Pacheco did not file an appeal, and his tribal license revocation was final on September 1, 2011.

5) Based on his actions, Mr. Pacheco poses a threat to the effective regulation of gaming, and enhances the chance of unfair illegal practices, and has failed to establish by clear and convincing evidence the necessary qualifications for certification under RCW 9.46.153(1), and RCW 9.46.190.

6) Therefore, under Section 5(c) of the Tulalip Tribe/State Compact, RCW 9.46.075(1), (8), and (10), and WAC 230-03-085(1) and (8), grounds exist to revoke Scott Pacheco's certification.

VIOLATIONS:

Section 5(c) of the Tulalip Tribe/State Compact

The State Gaming Agency² may revoke, suspend or deny a State certification under the provisions of RCW 9.46.075, and rules promulgated there under, or for any reason or reasons it deems to be in the public interest. In addition, these reasons shall include, but shall not be limited to when a holder of certification:

(The following subsections apply.)

(i) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the State Gaming Agency pursuant thereof, or any provision of a Tribal-State Compact;

(vi) Fails to prove, by clear and convincing evidence, that he is qualified in accordance to the provisions of this section;

(vii) Has had a Tribal license revoked or denied in the proceeding twelve months;

RCW 9.46.075 Denial, suspension, or revocation of license, application, or permit

² Washington State Gambling Commission, as referred to in the Tulalip Tribal/State Compact, Section 2 (p).

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein: (The following subsections apply.)

- (1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;
- (8) Fails to prove, by clear and convincing evidence, that he, is qualified in accordance with the provisions of this chapter;
- (10) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain;

WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsections apply.)

- (1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.
- (8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

RCW 9.46.190 Violations relating to fraud or deceit

Any person or association or organization operating any gambling activity who or which, directly or indirectly, shall in the course of such operation:

(The following subsections apply.)

- (1) Employ any device, scheme, or artifice to defraud; or
- (3) Engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person;

Shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021.

RCW 9.46.153(1) Applicants, licensees-Responsibilities, and duties-Waiver of liability-Investigation statement as privileged.

It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed

activity will be conducted.

IV.

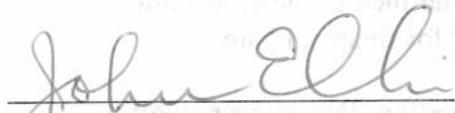
CONCLUSIONS OF LAW

The circumstances specified in the Findings of Facts in section III above constitute grounds for the revocation of Scott D. Pacheco's certification to conduct gambling activities under the authority of RCW 9.46.075 and WAC 230-03-085.

DECISION AND ORDER

The Washington State Gambling Commission HEREBY ORDERS: Scott D. Pacheco's certification to conduct Class III Employee activities is REVOKED.

DATED this 29th day of March, 2012.



JOHN ELLIS, Chair

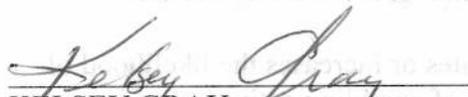


MIKE AMOS, Vice Chair



KEVEN ROJECKI

MICHAEL REICHERT



KELSEY GRAY

NOTICE: RCW 34.05.440(3) provides that within seven (7) days after service of a default order the party against whom it was entered may file a written motion requesting that the order be vacated and stating the grounds relied upon.

WAC 230-17-040(3) requires that motions be served on the parties listed below:

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